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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PENNSYLVANIA

No. 02-CV-2733 (HB)

CONSTELLATION NEWENERGY, INC.,

Plaintiff,

VS.

POWERWEB TECHNOLOGIES, INC., et al,

Defendant.

Deposition of **STEVEN LEVINE**, a witness
called on behalf of the Defendant, taken pursuant
to notice before Cindy M. Falcon, Certified
Shorthand Reporter and Notary Public in and for
the Commonwealth of Massachusetts, at the Holiday
Inn, 242 Adams Place, Boxborough, Massachusetts,
on Thursday, January 22, 2004, commencing at 12:05
p.m.

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1 Q You were employed at NewEnergy in 1999?

2 A Yes.

3 Q You worked there from some point?

4 A Since November of '98.

5 Q You worked with several people in the energy
6 services group who reported to you, and you listed
7 eight or nine of them, correct?

8 A That's correct.

9 Q You had occasion to talk with them about their
10 understanding of what types of product, what types
11 of products were available in the industry at that
12 particular time, right?

13 A Yes.

14 Q You had some awareness and knowledge of what
15 energy services group within NewEnergy knew about
16 the state of competition and types of products
17 that were available within the industry?

18 A Yes.

19 Q In 1999 when Mr. Budike was bringing this proposal
20 to NewEnergy, did NewEnergy already know about the
21 concept of capacity sales?

22 A A number of staff, employees at NewEnergy
23 Ventures, were familiar with the idea of capacity
24 sales, not limited to the energy service unit, but

1 also in the trading group.

2 With that said, I can't speak to whether we
3 had actually done a capacity or reserve sale at
4 that time.

5 Q But certainly the concept wasn't anything that was
6 novel to the group of people within NewEnergy?

7 MS. GOODCHILD: Objection, argument.
8 He's already testified.

9 A Not to my knowledge.

10 Q Did you consider there to be anything novel or
11 unique about the program that Mr. Budike was
12 bringing to NewEnergy?

13 A Well, as I said before--

14 MS. GOODCHILD: Objection to the form of
15 the question.

16 A As I said before, I did not review the Omni-Link
17 or Powerweb technology or program for its
18 technical viability or capabilities but for the
19 commercial application; and as I indicated, we
20 felt that the application as contemplated with
21 Bell Atlantic was not fully developed and more
22 efforts, as I mentioned, specifically needed to be
23 done before it would be -- before it could be
24 complete with Bell Atlantic.